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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/757,382 | 01/14/2004 | Behzad Kasraie | 40 , 730 | 3621 |

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EXAMINER

ADDIE, RAYMOND W

| ART UNIT | PAPER NUMBER |
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3671

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/757,382 | Applicant(s) KASRAIE, BEHZAD | |
| | Examiner Raymond W. Addie | Art Unit 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>01/14/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the phrase, "The invention is a guard rail support" in line 1, is redundant. The cited phrase should be --A guard rail support--.

In ln. 2, the phrase "The invention comprises", should be --The guard rail support has--.

In line 5, the phrase "The invention" should be --The guard rail support--.

Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

Page 5, ln. 2, the phrase ".14"± 1""; should be --14"±1"--.

Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 2 additional of said tire planks so as to increase said thickness of said block by approximately 0.4 inches and said depth of (sic) said block by approximately 0.4 inches" as recited in claims 10, 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended."

If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

In this case although Fig. 1 shows the thickness of the block being increased by the addition of 2 additional tire planks, the Figs. do not show the depth, being increased. Further, since the "depth" is not recited in Independent Claim 7, the "depth" is believed to refer to the "width" of the block; since the thickness is already claimed to be increased by the addition of 2 additional tire planks.

Claim Objections

3. Claims 1-4, 6, 7, 9-11 are objected to because of the following informalities:

Claim 1, Ins. 2-3, the phrase "complying with the Federal Highway Administration's regulations" is objected to because Federal regulations can change over time.

Applicant should consider reciting the specific dimensions of the support in the claim.

Claim 2, In. 2, the phrase "approximately fourteen inches, plus or minus one inch" should be --between 13 and 15 inches--.

Claim 3, In. 2, the phrase "approximately six inches, plus or minus one inch" should be --between 5 and 7 inches--.

Claim 4, In. 2, the phrase "approximately six inches, pus or minus one inch" should be --between 5 and 7 inches--. Since the cited phrases constitute a range within a range.

Claims 6, 9 Ins. 2-3, the phrase "is about one and one-half inches from said width of said tire plank" should be -- is about one and one-half inches from a side of said tire plank--. In order to be consistent with specification page 8.

Claim 7, Ins. 3-5, the phrase "approximately fourteen inches, plus or minus one inch, in length, approximately six inches, pus or minus one inch, in width, and six inches, plus or

minus one inch, thick"; should be --between 13-15 inches in length, between 5 and 7 inches, in width and thickness--.

Since the cited phrase constitutes a range within a range.

Claims 10, 12 Ins. 2-3, the phrase "increase said thickness of said block by approximately 0.4 inches and said depth said block by approximately 0.4 inches"; should be -- increase said thickness of said block by approximately 0.4 inches--.

Since the phrase "said depth" lacks antecedent basis in Independent Claim 7.

Claim 11, Ins. 7-8, the phrase "is about one and one-half inches from said width of said tire plank" should be --is about one and one-half inches from a side of said tire plank--.

In order to be consistent with specification page 8. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- are rejected under 35 U.S.C. 103(a) as being unpatentable over Atwood #

6,308,936 B1 in view of Khadem # US 2002/0098318 A1.

Atwood discloses a highway guard rail support comprising:

A block (20) having a length of 14", a width of 6" and a length of 8".

Said block have a hole (42) formed therein, at a location off center that is approximately 1 1/2" from a side of the block. See Fig. 3.

What Atwood does not disclose is making the block from automobile tires.

However, Khadem teaches it is known to make guard rail supports from used automobile tires comprising: At least 2 tire planks bonded together. See Fig. 8.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the guard rail support of Atwood, from recycled tire treads, as taught by Khadem, in order to reduce the demand for landfill space, as suggested by Khadem. See cols. 1-4. See Atwood cols. 1-2.

In regards to claim 4 although Atwood discloses the post block (20) is generally rectangular (6"X8"X14"), Atwood further discloses the block can contain a recess (32) along the entire rear face of the block, thus making the effective thickness of the block approximately 7" thick. Still further, Atwood discloses it is important to reduce the weight of the block by providing channels (34, 36) and voids (40) to reduce the weight of the block without reducing the strength of said block. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the block of Atwood to have a thickness of approximately 7" thick or less, in order to reduce the weight of the block, as reasonably suggested by Atwood. See col. 2.

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In regards to Claims 5, 6, 8, 9, 11 although Atwood does not specifically disclose the diameter of the bolt receiving hole (42); Atwood does illustrate the location and approximate size of the hole (42), such that the hole (42) appears to be approximately $\frac{3}{4}$ " in diameter, and disposed approximately $1\frac{1}{2}$ " from a side of said block, when compared to the overall width of the block. See fig. 3.

In regards to Claims 10, 12 Atwood discloses the block can be generally rectangular and be generally (6"X8"X14"), but does not disclose making the block from recycled vehicle tires. However, Khadem teaches it is known to make guard rail supports from recycled vehicle tires comprising at least 2 tire belts including at least a portion of the treads, bonded together to form an AKAMITE plank.

The belts/treads being passed through a buffing machine to reduce the thickness of each belt/tread. Said AKAMITE plank can be made into a thicker block by bonding additional AKAMITE planks together (up to ten planks thick) and then cut and shaped as required by different applications. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the guard rail block of Atwood, from a plurality of recycled tire treads, as taught by Khadem, in order to form a guard rail block having a desired thickness and load strength. See Khadem col. 2.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chiovitti et al. # 5,284,326 discloses a resilient road-guard post.

Tischer # 5,607,252 discloses a highway collision containment system. Coffin # 6,258,193 discloses a method for fabricating laminated structures from rubber tire parts. Bove et al. # 6,306,484 B1 discloses a parking stop made from recycled tires. Khadem # 6,527,891 B2 discloses an AKAMITE plank made from scrap tires.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raymond Addie
Patent Examiner
Group 3600

7/10/04